

Bill No. SB 1710

Barcode 763840

CHAMBER ACTION

Senate

House

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The Committee on Education (Wise) recommended the following amendment:

Senate Amendment (with title amendment)

On page 4, between lines 7 and 8,

insert:

Section 2. Section 218.503, Florida Statutes, is amended to read:

218.503 Determination of financial emergency.--

(1) Local governmental entities, charter schools, and district school boards shall be subject to review and oversight by the Governor or the Commissioner of Education when any one of the following conditions occurs:

(a) Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.

(b) Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds.

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1 (c) Failure to transfer at the appropriate time, due
2 to lack of funds:

3 1. Taxes withheld on the income of employees; or

4 2. Employer and employee contributions for:

5 a. Federal social security; or

6 b. Any pension, retirement, or benefit plan of an
7 employee.

8 (d) Failure for one pay period to pay, due to lack of
9 funds:

10 1. Wages and salaries owed to employees; or

11 2. Retirement benefits owed to former employees.

12 (e) An unreserved or total fund balance or retained
13 earnings deficit, or unrestricted or total net assets deficit,
14 as reported on the balance sheet or statement of net assets on
15 the general purpose or fund financial statements, for which
16 sufficient resources of the local governmental entity, as
17 reported on the balance sheet or statement of net assets on
18 the general purpose or fund financial statements, are not
19 available to cover the deficit. Resources available to cover
20 reported deficits include net assets that are not otherwise
21 restricted by federal, state, or local laws, bond covenants,
22 contractual agreements, or other legal constraints. Fixed or
23 capital assets, the disposal of which would impair the ability
24 of a local governmental entity to carry out its functions, are
25 not considered resources available to cover reported deficits.

26 (2) A local governmental entity shall notify the
27 Governor and the Legislative Auditing Committee, a charter
28 school shall notify the charter school sponsor and the
29 Legislative Auditing Committee, and a district school board
30 shall notify the Commissioner of Education and the Legislative
31 Auditing Committee, when one or more of the conditions

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1 specified in subsection (1) have occurred or will occur if
 2 action is not taken to assist the local governmental entity,
 3 charter school, or district school board. In addition, any
 4 state agency must, within 30 days after a determination that
 5 one or more of the conditions specified in subsection (1) have
 6 occurred or will occur if action is not taken to assist the
 7 local governmental entity, charter school, or district school
 8 board, notify the Governor, charter school sponsor, or the
 9 Commissioner of Education, as appropriate, and the Legislative
 10 Auditing Committee.

11 (3) Upon notification that one or more of the
 12 conditions in subsection (1) exist, the Governor or his or her
 13 designee shall contact the local governmental entity or the
 14 Commissioner of Education or his or her designee shall contact
 15 the district school board to determine what actions have been
 16 taken by the local governmental entity or the district school
 17 board to resolve the condition. The Governor or the
 18 Commissioner of Education, as appropriate, shall determine
 19 whether the local governmental entity or the district school
 20 board needs state assistance to resolve the condition. If
 21 state assistance is needed, the local governmental entity or
 22 district school board is considered to be in a state of
 23 financial emergency. The Governor or the Commissioner of
 24 Education, as appropriate, has the authority to implement
 25 measures as set forth in ss. 218.50-218.504 to assist the
 26 local governmental entity or district school board in
 27 resolving the financial emergency. Such measures may include,
 28 but are not limited to:

29 (a) Requiring approval of the local governmental
 30 entity's budget by the Governor or approval of the district
 31 school board's budget by the Commissioner of Education.

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1 (b) Authorizing a state loan to a local governmental
2 entity and providing for repayment of same.

3 (c) Prohibiting a local governmental entity or
4 district school board from issuing bonds, notes, certificates
5 of indebtedness, or any other form of debt until such time as
6 it is no longer subject to this section.

7 (d) Making such inspections and reviews of records,
8 information, reports, and assets of the local governmental
9 entity or district school board. The appropriate local
10 officials shall cooperate in such inspections and reviews.

11 (e) Consulting with officials and auditors of the
12 local governmental entity or the district school board and the
13 appropriate state officials regarding any steps necessary to
14 bring the books of account, accounting systems, financial
15 procedures, and reports into compliance with state
16 requirements.

17 (f) Providing technical assistance to the local
18 governmental entity or the district school board.

19 (g)1. Establishing a financial emergency board to
20 oversee the activities of the local governmental entity or the
21 district school board. If a financial emergency board is
22 established for a local governmental entity, the Governor
23 shall appoint board members and select a chair. If a financial
24 emergency board is established for a district school board,
25 the State Board of Education shall appoint board members and
26 select a chair. The financial emergency board shall adopt such
27 rules as are necessary for conducting board business. The
28 board may:

29 a. Make such reviews of records, reports, and assets
30 of the local governmental entity or the district school board
31 as are needed.

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1 b. Consult with officials and auditors of the local
2 governmental entity or the district school board and the
3 appropriate state officials regarding any steps necessary to
4 bring the books of account, accounting systems, financial
5 procedures, and reports of the local governmental entity or
6 the district school board into compliance with state
7 requirements.

8 c. Review the operations, management, efficiency,
9 productivity, and financing of functions and operations of the
10 local governmental entity or the district school board.

11 2. The recommendations and reports made by the
12 financial emergency board must be submitted to the Governor
13 for local governmental entities or to the Commissioner of
14 Education and the State Board of Education for district school
15 boards for appropriate action.

16 (h) Requiring and approving a plan, to be prepared by
17 officials of the local governmental entity or the district
18 school board in consultation with the appropriate state
19 officials, prescribing actions that will cause the local
20 governmental entity or district school board to no longer be
21 subject to this section. The plan must include, but need not
22 be limited to:

23 1. Provision for payment in full of obligations
24 outlined in subsection (1), designated as priority items, that
25 are currently due or will come due.

26 2. Establishment of priority budgeting or zero-based
27 budgeting in order to eliminate items that are not affordable.

28 3. The prohibition of a level of operations which can
29 be sustained only with nonrecurring revenues.

30 (4) Upon notification that one or more of the
31 conditions in subsection (1) exist, the charter school sponsor

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1 or the sponsor's designee shall contact the charter school
2 governing board to determine what actions have been taken by
3 the charter school governing board to resolve the condition.
4 The charter school sponsor has the authority to require and
5 approve a financial-recovery plan, to be prepared by the
6 charter school governing board, prescribing actions that will
7 cause the charter school to no longer be subject to this
8 section. The Department of Education must establish guidelines
9 for developing such plans.

10 ~~(5)(4)~~ A local governmental entity or district school
11 board may not seek application of laws under the bankruptcy
12 provisions of the United States Constitution except with the
13 prior approval of the Governor for local governmental entities
14 or the Commissioner of Education for district school boards.

15 ~~(6)(5)~~(a) The governing authority of any municipality
16 having a resident population of 300,000 or more on or after
17 April 1, 1999, which has been declared in a state of financial
18 emergency pursuant to this section may impose a discretionary
19 per-vehicle surcharge of up to 20 percent on the gross
20 revenues of the sale, lease, or rental of space at parking
21 facilities within the municipality which are open for use to
22 the general public.

23 (b) A municipal governing authority that imposes the
24 surcharge authorized by this subsection may use the proceeds
25 of such surcharge for the following purposes only:

26 1. No less than 60 percent and no more than 80 percent
27 of the surcharge proceeds shall be used by the governing
28 authority to reduce its ad valorem tax millage rate or to
29 reduce or eliminate non-ad valorem assessments.

30 2. A portion of the balance of the surcharge proceeds
31 shall be used by the governing authority to increase its

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1 budget reserves; however, the governing authority shall not
 2 reduce the amount it allocates for budget reserves from other
 3 sources below the amount allocated for reserves in the fiscal
 4 year prior to the year in which the surcharge is initially
 5 imposed. When a 15-percent budget reserve is achieved, based
 6 on the average gross revenue for the most recent 3 prior
 7 fiscal years, the remaining proceeds from this subparagraph
 8 shall be used for the payment of annual debt service related
 9 to outstanding obligations backed or secured by a covenant to
 10 budget and appropriate from non-ad valorem revenues.

11 (c) This subsection expires June 30, 2006.

12
 13 (Redesignate subsequent sections.)

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 16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 1, line 5, after the first semicolon,

19
 20 insert:

21 amending s. 218.503, F.S.; providing for
 22 charter schools to be subject to provisions
 23 governing financial emergencies;

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